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## VEHICLE SERVICES



# ESTATES: FACTS ABOUT VEHICLE TITLE TRANSFERS

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**JIM EDGAR**  
**Secretary of State**

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# Transferring Titles

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Upon the death of a vehicle owner, the procedure for transferring the vehicle title depends on whether the title was in the individual name of the decedent or in joint tenancy. If the title was in the decedent's name only, the procedure then depends on whether the decedent's estate is being probated. These various procedures are as follows:

## **Title Registered in the Individual Name of Decedent**

### **A. PROBATED**

If probated, the Secretary of State requires the following documents in order to transfer title regardless of whether title is being transferred to a purchaser from the estate or whether it is being transferred to an heir or legatee of the decedent:

1. Certified copy of **Letters of Administration** or **Letters Testamentary** showing the name of the legal representative of the estate.
2. **Decedent's title** must be surrendered, and it must be assigned by the legal representative of the estate to the transferee.
3. An **application for title** must be completed and signed by the transferee and applicant must submit the required **\$3 title fee** and appropriate **registration fee** if applicable.

### **B. SMALL ESTATE**

If (1) decedent's estate is not being probated, (2) the value of the personal estate does not exceed \$15,000, and (3) at least 30 days have passed since the death, then the **Small Estate Affidavit procedure** applies and the following documents must be furnished to the Secretary of State:

1. **Small Estate Affidavit** executed by an heir of the decedent or by a legatee of



the decedent if there is a will. The transferee may be any applicant, and applicant's name will be shown on line (8) of the affidavit. Affidavit should indicate funeral expenses have been paid or a release from the funeral home must be submitted. If legatee completes Small Estate Affidavit, a **copy of the will** must be submitted.

2. The **decedent's title** must be surrendered.
3. An **application for title** must be completed and signed by the transferee and submitted with the required **\$3 title fee** and the appropriate **registration fee** if applicable.

### C. ATTORNEY'S AFFIDAVIT

If the estate is not being probated, and if the Small Estate Affidavit procedure is not applicable or appropriate for any reason, then the transfer may be accomplished by the **Attorney's Affidavit procedure** (*Chap. 95½ 3-114e, Illinois Vehicle Code*). The following documents must be furnished to the Secretary of State:

1. **Attorney's Affidavit** on the attorney's letterhead, stating:
  - (a) The name and last address of the decedent.
  - (b) The date of death.
  - (c) The year, make and vehicle identification number (VIN) of the vehicle.
  - (d) To whom the vehicle is being transferred and the relationship to decedent, if any.
  - (e) Any other pertinent facts relating to the transfer of the vehicle.
2. Copy of the **Death Certificate**.
3. The **decedent's title** must be surrendered.
4. An **application for title** must be completed and signed by the transferee and submitted along with the **\$3 title fee** and appropriate **registration fee** if applicable.

## Joint Tenancy Ownership

A title in the names of two or more persons is considered to be in **Joint Tenancy**. Upon the death of one of them, the surviving joint tenant(s) becomes the owner(s) of the vehicle by operation of law. Within 120 days after the decedent's death, the surviving joint tenant(s) must apply for title in their own name(s) unless transferring title to someone else. In either event, the following documents must be furnished to the Secretary of State.

### A. IF APPLICANT IS THE SURVIVING JOINT TENANT:

1. Copy of the **Death Certificate**.
2. The **original title** (*jointly owned*) must be surrendered and need not be assigned.
3. An **application for corrected title** in order to have the decedent's name removed from the old title.
4. If applicant plans to operate the vehicle, then, in addition to applying for a **corrected title**, applicant should also submit **another application** to correct the registration. A current registration thus can be assigned to the surviving joint tenant.
5. The appropriate **\$3 title fee** and, if applicable, **\$2 corrected registration fee** must be paid.

### B. IF SURVIVING JOINT TENANT IS TRANSFERRING TITLE TO ANOTHER INDIVIDUAL:

1. Copy of the **Death Certificate**.
2. The **original title** (*jointly owned*) must be properly assigned by the surviving tenant(s) transferring the vehicle to the transferee. If title is lost, the surviving joint tenant(s) must obtain **duplicate title** to be able to assign it to the transferee.
3. Transferee must submit the **assigned title** and completed **application for title**.

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4. If transferee also intends to operate the vehicle, the transferee's **application for title** will serve as an application for registration.
5. The appropriate \$3 **title fee** and, if applicable, registration fee must be paid.

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## What if Title is Lost?

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It is not necessary to apply for a **duplicate title** in all of the situations previously outlined (*exception: joint tenancy ownership, Section B*). However, in each case, an **affidavit** must be made indicating the title has been lost and a statement submitted explaining the transfer of the vehicle. In those cases where the **Small Estate Affidavit** or **Attorney's Affidavit** procedure is applicable, the statement about the lost title may be included in such **affidavit**.

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## Title and Registration Fees

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1. **Title Fee** is \$3 in all cases, with one exception (*Junking Certificate-no fee*).
2. If the current registration has not expired, then a surviving joint tenant can maintain the same plates. A surviving spouse also has the right to maintain the same plates even though title was in the decedent's name only. The **corrected registration transfer fee** is \$2 in both cases if the current registration has not expired.
3. If the current registration has expired or is about to expire, the **applicable registration fees** will apply.
4. Title and registration fees may be combined in **one check or money order** made payable to "Secretary of State."



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## Payment of Casual Sales Tax or Exemptions

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Sale of motor vehicles between individuals may be subject to sales tax. If you have any further questions, please call this office or Illinois Department of Revenue at (217) 782-2181.

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## Forms

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Applications and forms may be obtained at most Secretary of State facilities; by writing to the Secretary of State, Title Processing Division, Estate and Legal Section, 6th Floor, Centennial Building, Springfield, Illinois 62756; or by calling the toll free number:



**1—800—252-8980**

or

**In Chicago, call**

**(312) 793-1010**